

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

FRED BECK; ET AL.,

PLAINTIFFS,

VS.

CIVIL ACTION NO. 3:03CV60-P-D

**KOPPERS, INC., f/k/a KOPPERS INDUSTRIES, INC.;
ET AL.,**

DEFENDANTS.

CONSOLIDATED WITH

HOPE ELLIS, ET AL.,

PLAINTIFFS,

VS.

CIVIL ACTION NO. 3:04CV160-P-D

**KOPPERS, INC., f/k/a KOPPERS INDUSTRIES, INC.;
ET AL.,**

DEFENDANTS.

ORDER

This matter comes before the court upon Plaintiff's Motion to Exclude Testimony of Philip Cole [463-1]. Upon due consideration of the motion and the response filed thereto, the court finds as follows, to-wit:

The testimony of Dr. Philip Cole is clearly relevant because it tends to make the validity of Dr. Dahlgren's study – an issue of fact that is of consequence to this action – more or less probable. Furthermore, although said testimony will likely be prejudicial to the plaintiff's case, it is not unfairly prejudicial warranting exclusion under Fed. R. Evid. 403. Finally, the defendants have met their burden in showing that the opinions of Cole meet Rule 702 and *Daubert/Kumho* standards.

IT IS THEREFORE ORDERED AND ADJUDGED that Plaintiff's Motion to Exclude

Testimony of Philip Cole [463-1] is **DENIED**.

SO ORDERED this the 2nd day of February, A.D., 2006.

/s/ W. Allen Pepper, Jr._____

W. ALLEN PEPPER, JR.

UNITED STATES DISTRICT JUDGE